

WRIT PETITION NO. 385 OF 2003

Shri Kashinanath Atchut
P. Dessai, age 65 years,
Behind UCO Bank,
Margao, Goa

... Petitioner

Versus

1. State of Goa,
through its Chief Secretary,
Secretariat, Panaji, Goa,
2. Registrar of Co-operative
Societies, Government
of Goa, Panaji, Goa,
3. The Madgaum Urban Coop.
Bank Ltd., through its
General Manager, "Varsha",
Auem Alto, Margao, Goa,
4. Shri Ramakant Angle,
Chairman, the Madgaum
Urban Coop Bank Ltd.,
"Varsha", Aquem Alto,
Margao, Goa,
5. Shri Ivo Almeida Coutinho,
Director, the Madgaum
Urban Coop. Bank Ltd.,
"Varsha", Aquem Alto,
Margao, Goa,
6. Adv. Dilip N. Savordekar,
Khareband, Margao, Goa,
7. Shri Arvind M. Hodarkar,
M/s. Timblo Ltd.,
1st Floor, Kadar Manzil,
Opp. Hari Mandir,
Margao, Goa,
8. Shri Andrew S. Gracias,
Mini Haven, Nuvem,
Salcete, Goa,
9. Shri Dadi G. Naik,
H.No.979, Barbhat,
Shiroda, Goa,
10. Shri Gurudas L. Kamat,
Director, the Madgaum
Urban Coop. Bank Ltd.,

"Varsha", Aquem Alto,
Margao, Goa,

11. Shri Suresh R. Phadte,
Director, the Madgaum
Urban Coop Bank Ltd.,
"Varsha", Aquem Alto,
Margao, Goa,

12. Shri Mhalu G. Naik,
Director, the Madgaum Urban
Coop. Bank Ltd.,
"Varsha", Aquem Alto,
Margao, Goa, and

13. Shri Kishore V. Narvenkar,
Director, the Madgaum
Urban Coop. Bank Ltd.,
"Varsha", Aquem Alto,
Margao, Goa.

... Respondents.

Shri M. P. Amonkar, advocate for the petitioner.

Shri A.N.S. Nadkarni, Advocate General with Shri P. A.
Kamat, Addl. Govt. Advocate for respondent nos.1 and 2.

Shri S. G. Dessai, Senior Advocate with Shri Shivan Dessai,
advocate for respondent no.3.

CORAM : F. I. REBELLO &
P. V. HARDAS, JJ.

DATE: 13th August, 2003.

ORAL ORDER (Per Rebello, J.)

The petitioner had approached this Court to contend that the respondent nos. 3 to 13 had wrongly granted concession/rebate in repayment of loan and interest under the provisions of Bye-law No. 41(g) of the Madgaum Urban Co-op. Bank Ltd. It was his further contention that respondent no.2 who is duty-bound to act has failed to discharge his duties. Considering the controversy involved notice was issued to respondent nos. 1 to 3 only.

2. On behalf of respondent no.2, the Registrar, an

affidavit has been filed wherein the various steps taken have been set out. It is also set out therein that the Chartered Accountant/Certified Auditor, has been appointed under Section 81 of the Act to verify the facts. It is then set out that after receipt of the Audit Report of the auditor and Special Report on the point of granting rebate/concession, in respect of 33 cases, the same shall be examined and further action shall be taken including action under Section 88 of the Maharashtra Cooperative Societies Act, 1960 as in force in the State of Goa. It is also set out in the affidavit that ex-post facto approval has been refused as communicated to the Bank by respondent no.2 by letter dated 20th May, 2002.

3. On the other hand, on behalf of the respondent no.3, their learned counsel points out that the power in the Board to grant rebate, waive etc. is located in bye-law no.36(7). We do not propose to go into that issue as the decision of the Board was taken in exercise of the powers under bye-law no.41(g). It will, however, be open if in law the respondent no.3 and the Board of Directors are so entitled, to point out the same to respondent no.2 who will consider the same on its own merits.

4. With the above the statements in the affidavit of P. K. Patidar are accepted. He is directed to complete the entire process according to law, at any rate within six

months from today. With the above observations, the petition stands disposed of with no order as to costs.

F. I. REBELLO, J.

P. V. HARDAS, J.

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